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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 AMIT SHARMA,

11 Petitioner,

12 vs.

13 MINGA WOFFORD, Mesa Verde ICE
14 Processing Center Facility Administrator

15 Respondent.

Case No.: 1:25-CV-01793-DAD-SCR

MOTION FOR TEMPORARY
RESTRAINING ORDER; AFFADAVIT OF
ERIKA VEJAR

16 Petitioner Amit Sharma, through undersigned counsel, hereby files a Motion for
17 Temporary Restraining Order in the above-entitled matter.¹

18 DATED: December 21, 2025

Respectfully submitted,

19 /s/ Joseph Abrams

20 Joseph Abrams
21 Attorney for Petitioner

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23
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26
27 ¹ Petitioner previously filed a Motion to Expedite (ECF No. 2) concurrently with the Petition for Habeas
28 Corpus (ECF No. 1). In a subsequent Minute Order from the Court (ECF No. 5), the Court indicated that expedited
review was not practical due to the backlog of cases. As a result, Petitioner elects to file this Motion for
Temporary Restraining Order as an alternative process of seeking emergency relief.

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offset a weaker showing of another. For example, a stronger showing of irreparable harm to plaintiff might offset a lesser showing of likelihood of success on the merits...a preliminary injunction could issue where the likelihood of success is such that 'serious questions going to the merits were raised and the balance of hardships tips sharply in [petitioner's] favor.'")

III.

STATEMENT OF FACTS

A. Petitioner's Entry, Arrest, Release, and Re-Arrest

Petitioner, 31, was born [REDACTED] in Sri Ganga Nagar, Rajas Than, India. Vejar Aff. ¶ 1; *See also* ECF No. 1, Ex. B (App. for Asylum). Petitioner resided in India from his birth until 2022, when he fled the country to escape political persecution, torture, and potential death. *Id.* Petitioner is single with no children. *Id.* His parents and sibling continue to reside in India. *Id.* Prior to his arrest, Petitioner resided and worked in Yuba City, California. *Id.*

On August 30, 2023, Petitioner entered the United States near Otay Mesa, California. Vejar Aff. ¶ 2; *See also* ECF No. 1, Ex. A (Notice to Appear). Petitioner entered without having been admitted or paroled after inspection and was arrested by U.S. Border Patrol agents upon his entry. *Id.*

On September 2, 2023, Petitioner was released at the border on his own recognizance and instructed to appear at any and all immigration-related hearings. Vejar Aff. ¶ 3. Petitioner has at all times complied with this directive. *Id.* Petitioner was further instructed to provide information of a sponsor, which he did. *Id.* He was not told to report periodically to Immigration and Customs Enforcement ("ICE") or to any immigration official. *Id.* During the period of his release, Petitioner lived with his family in Yuba City, gained lawful employment, sought relief in his immigration case, and maintained a clean criminal record.

At a later date following Petitioner's release, ICE contacted his sponsor and his sponsor's wife. Vejar Aff. ¶ 4. The sponsor informed ICE that petitioner did not reside in their home (there is nothing in the record to indicate that the Petitioner was required to live with his sponsor and therefore this does not constitute any sort of violation.) *Id.* Following contact with

1 the sponsor, Petitioner was placed on electronic monitoring and instructed to report to ICE
2 monthly. *Id.* Petitioner has at all times complied with this directive. *Id.*

3
4 On October 31, 2023, Petitioner applied for asylum and withholding of removal. Vejar
5 Aff. ¶ 5; *See also* ECF No. 1, Ex. B. Petitioner's asylum claim was based on political opinion
6 and Convention Against Torture ("CAT"). *Id.*

7 In his asylum application, Petitioner states-

8 I am a worker of opposition political party and I used to participate in the
9 party [sic] events and activities. I was threatened and forced to quit my party
because of my active participation in the party events [REDACTED]

10 [REDACTED]
11 members. I left my country in search of safe living conditions.

12 I fear that I will be get [sic] killed due to my political activities. [REDACTED]

13 [REDACTED] If I go back to India

I fear that this will repeat again and I may loose [sic] my life.

14 (ECF No. 1, Ex. B.)

15 Petitioner also affirmed in his application that he has no prior criminal history and his
16 only prior arrest was when he was arrested by immigration authorities upon his entry into the
17 United States. *Id.*

18 On November 6, 2023, Petitioner was found removable from the United States pursuant
19 to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"). Vejar Aff. ¶ 6; *See*
20 *also* ECF No. 1, Ex. C (Dec. on Removability).

21 Earlier this year, Petitioner requested permission to travel from his home in Yuba City to
22 Los Angeles to meet with his prior immigration attorney to prepare for his Merits Hearing
23 scheduled for December 18, 2025 before the U.S. Immigration Court in Sacramento,
24 California. Vejar Aff. ¶ 7. Soon after making this request, ICE called Petitioner and instructed
25 him to report to their office in Bakersfield on October 14, 2025. *Id.*

26 On October 6, 2025, ICE called Petitioner and instructed him to report to their office on
27 October 7, 2025, rather than October 14, 2025. Vejar Aff. ¶ 8.
28

1 On October 7, 2025, Petitioner reported to ICE as instructed and was subsequently
2 arrested and detained without explanation. Vejar Aff. ¶ 9. He is presently being detained at
3 Mesa Verde. *Id.*; *See also* ECF No. 1, Ex. D (Notice to EOIR).²

4
5 **B. Petitioner's Detention at Mesa Verde**

6 Petitioner is a practicing Hindu who adheres to all religious customs and ordinances of
7 the Hindu faith, including his obligation to follow a strict vegetarian diet. Vejar Aff. ¶ 10.
8 Petitioner's religion forbids him from eating "contaminated" food or food prepared in a place
9 or by a person where non-vegetarian food is also prepared. *Id.* At Mesa Verde, Petitioner is
10 unable to adhere to this religious ordinance because the same person who cooks chicken also
11 prepares the vegetables he is fed (Petitioner is fed smashed beans and eggs; however, eggs are
12 not considered vegetarian in the Hindu religion). *Id.* This reality has negatively affected
13 Petitioner's morale and mental health as he believes he is not being obedient to God and that he
14 therefore will not receive God's help. *Id.*

15 Petitioner requested two months ago that his food and food preparation be changed;
16 however, nothing has changed. Vejar Aff. ¶ 11. As a result, Petitioner does not eat the food
17 given to him. *Id.* As this goes on, Petitioner's physical health has also deteriorated. *Id.* His hair
18 is graying from depleted nutrients, his eye sight is suffering, and he is aging at an accelerated
19 rate. *Id.* Petitioner's sleep patterns have also been negatively affected as his mental health
20 deteriorates alongside his physical condition. *Id.*

21 Petitioner is also being harassed by other inmates. Vejar Aff. ¶ 12. Because he is clothed
22 in an orange jumpsuit while the general population wears blue, Petitioner stands out as
23 someone who has done something wrong in the United States and draws the wrath of other
24 inmates. *Id.* He has requested to wear blue instead of orange; however, his request has so far
25 been ignored. *Id.* A related problem is Petitioner's language barrier. *Id.* Because he does not
26

27
28 ² Because Petitioner's removal proceedings are not final, and mandatory detention is not applicable under
8 U.S.C. § 1226(c), which requires mandatory detention of criminal aliens, the presumptive detention statute in
this matter is § 1226(a) under which detention is discretionary and individualized.

1 speak English, it's difficult to communicate with guards and other inmates. *Id.* As a result, he
2 gets threatening stares from physically-imposing inmates, and gets woken up by other inmates
3 as a form of harassment. *Id.* Petitioner does not feel safe where he is.

4
5 Petitioner's continued detention has also caused family hardship. Vejar Aff. ¶ 13. Word
6 of his detention in the United States has traveled back to his mother and father, who is a pastor
7 in Inida. *Id.* Parishioners have left Petitioner's father's congregation as they learn of his
8 detention in the United States, concluding that he must be a bad person. *Id.*

9 In addition to unsafe conditions specific to Petitioner, there are broader inhumane
10 conditions at Mesa Verde that affect all inmates. Vejar Aff. ¶ 14. For example, when the fire
11 alarm drill sounds, the guards do not bother escorting any of the inmates out of the building. *Id.*
12 Petitioner is fearful that he would be left in the building if something were to happen. *Id.* Also,
13 the same cutting blades are used to cut the hair and beards of all inmates without cleaning or
14 sterilization, causing the spread of germs and bacteria due to the poor hygiene at the facility. *Id.*
15 Also, inmate clothes are not properly washed and cleaned. *Id.* Petitioner experiences intense
16 itching due to the unclean clothes that he is provided. *Id.*

17 Petitioner has contemplated harming himself if he remains in detention. Vejar Aff. ¶ 15.

18 IV.

19 ARGUMENT

20 A. Petitioner Is Likely to Succeed on the Merits

21 1. Prolonged detention without adequate process is unconstitutional

22 The Ninth Circuit has repeatedly held that immigration detainees may not be held for
23 prolonged periods without an individualized, constitutionally-compliant bond hearing. *See* ECF
24 No. 1, Sec. II, Pt. B (citing Zadvydas v. Davis, 533 U.S. 678 (2002); Singh v. Holder, 638 F.3d
25 1196, 1203 (9th Cir. 2010); Rodriguez v. Marin, 909 F.3d 252, 257 (9th Cir. 2018); Jennings v.
26 Rodriguez, 583 U.S. 281, 328 (2018)). Here, Petitioner is a non-criminal asylum seeker being
27 detained at the discretion of the government under 8 U.S.C. 1226(a). There is no discernable
28 reason relating to danger or flight risk for Petitioner's continued detention, which is already

1 several months in length, far exceeding the "temporary confinement" contemplated by Demore
2 V. Hyung Joon Kim, 538 U.S. 510, 531 (2003).
3

4 Petitioner has a protected liberty interest in his release, and his continued detention is a
5 plain violation of due process. Petitioner's prior release created a reasonable expectation that he
6 would be allowed to retain his liberty so long as he was not a danger to the community or a
7 flight risk. Petitioner's abrupt and unannounced re-detention without any apparent lawful basis
8 is inconsistent with fundamental principles of liberty and justice. The Court must therefore
9 exercise its jurisdiction and emergency authority and order that Petitioner be afforded a bond
10 hearing to determine whether he is a danger to the community or a flight risk and whether his
11 continued detention is justified.

12 **2. The government bears the burden of proof at a bond hearing**

13 The burden of establishing whether Petitioner's detention is justified falls on the
14 government. Singh at 1203. Given the substantial liberty interests at stake in so-called *Casas*
15 bond hearings, the government must prove by clear and convincing evidence that Petitioner's
16 continued detention is justified based on the to the danger to the community that Petitioner
17 poses or the risk that he will flee. *Id.* at 1200, 1203. For detained aliens like Petitioner, who
18 face years of detention before resolution of their immigration cases, the individual interest at
19 stake is without doubt "particularly important" and therefore a heightened standard of proof is
20 warranted. *Id.* at 1204. Petitioner's interests are "of such weight and gravity that due process
21 requires the state to justify confinement by proof more substantial than a mere preponderance
22 of the evidence." *Id.*

23 Petitioner has no prior criminal history and remained completely law abiding during the
24 time of his release. As such, there can be no reasonable argument, let alone by clear and
25 convincing evidence, that Petitioner poses a danger to the community. Further, from his release
26 in September 2023 to his re-arrest in October 2025, Petitioner remained 100% in compliance,
27 lived with his family in the community, worked in the community, and pursued his asylum
28

1 case in good-faith and on meritorious grounds. As such, there is also no reasonable argument
2 that Petitioner is a flight risk.
3

4 **C. Petitioner Faces Irreparable Harm**

5 It is widely and consistently recognized that loss of liberty is itself irreparable harm.
6 When loss of liberty results from ongoing, unconstitutional detention that causes continuous
7 injury, the irreparable harm is particularly apparent. The mental and physical deterioration of
8 the detainee only magnifies the harm and intensifies the need for relief.

9 Here, Petitioner is detained under inhumane conditions at Mesa Verde.

10 Petitioner, a practicing Hindu, is unable to adhere to tenets of his faith, including his
11 obligation to follow a strict vegetarian diet and avoid eating "contaminated" food. Petitioner's
12 request that his food and food preparation be changed has been ignored. Petitioner has therefore
13 been put in a position where he must refuse the smashed beans and eggs fed to him on religious
14 grounds. This has negatively affected Petitioner's morale and mental health. The lack of food
15 has caused Petitioner's physical health to also deteriorate. The combination of mental and
16 physical decline is negatively affecting his ability to sleep, which in turn worsens his mental
17 and physical health.

18 Petitioner is also subject to an array of harassment based on his status as an illegal
19 immigrant and his language barrier. Petitioner is regularly stared down in threatening manner
20 by other inmates. He is also intentionally awoken from sleep by other inmates. His requests to
21 jail staff for assistance are ignored. Understandably, Petitioner does not feel safe.

22 Petitioner's family is also suffering from his detention. Even his parents in India feel the
23 effects now that word of his detention in the United States has traveled back to his home
24 country.

25 Mesa Verde is also plagued by unsafe conditions. These include inmates being left in
26 place during fire alarm drills, raising Petitioner's fear that he would be left in the building in an
27 emergency. There is also the spread of germs and bacteria due to cutting blades that are used to
28

1 cut the hair and beards of all inmates without cleaning or sterilization, and from inmates being
2 issued unclean clothes.

3
4 **D. The Balance of Equities Favors Petitioner**

5 As shown, Petitioner is suffering severe and ongoing harm. The government, in contrast,
6 suffers no harm or legal prejudice by providing Petitioner with an individualize,
7 constitutionally-compliant bond hearing. If Petitioner is deemed too dangerous or a flight risk,
8 he will be detained. However, if he is neither, he should be released. This concept is basic and
9 settled under the law. When constitutional rights are violated, justice and fairness must balance
10 equities in favor of Petitioner.

11 **E. Public Interests Favors Relief**

12 There is strong public interest in ensuring and protecting the due process rights of
13 individuals facing the loss of their liberty, preventing the unlawful detention of individuals, and
14 maintaining proper restraint on the limits of government power. The need to protect these and
15 other important public interests strongly favors preventing the continued unconstitutional
16 confinement of Petitioner.

17 **F. Summary**

18 Petitioner has raised serious questions going to the merits of this case, including the
19 constitutionality of his continued detention and whether the government can prove by clear and
20 convincing evidence that he poses a danger to the community. Further, the balance of equities
21 tip strongly in Petitioner's favor and the need to protect several important public interests also
22 favors relief.

23 **V.**

24 **REQUESTED RELIEF**

25 Petitioner respectfully requests that the Court:

- 26 1. Issue a Temporary Restraining Order requiring Respondent to:
27 a. Provide Petitioner with a constitutionally-compliant bond hearing within
28 seven (7) day, at which:

- i. The government bears the burden of proof;
- ii. Dangerous must be show by clear and convincing evidence;
- iii. Flight risk must be shown by a preponderance of the evidence; and
- iv. The hearing must be recorded.

OR

- b. Release Petitioner immediately if Respondent fails to provide the hearing.
- c. Prohibit ICE from transferring Petitioner outside the Eastern District of California pending resolution of the habeas petition.
- d. Set this matter for an expedited hearing at the Court's earliest availability.
- e. Grant any further relief the Court deems just and proper.

VI.

CONCLUSION

For the reason stated above, Petitioner respectfully request that the Court issue the requested Temporary Restraining Order.

DATED: December 21, 2025

Respectfully submitted,

/s/ Joseph Abrams

Joseph Abrams
Attorney for Petitioner